

Message

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**From:** Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]  
**Sent:** 12/18/2018 6:50:38 PM  
**To:** Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]  
**Subject:** FW: OR

We seem to have agreement on the language directly below. Tom G is checking with OGC leadership on this, and then with Jim C on the 714 waters language. Once we have the OK on those items, I think we're done.

Chris

Chris Hunter  
202.566.1454  
Watershed Branch, Office of Water  
US Environmental Protection Agency

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**From:** Glazer, Thomas  
**Sent:** Tuesday, December 18, 2018 1:46 PM  
**To:** Cora, Lori <Cora.Lori@epa.gov>; Fullagar, Jill <Fullagar.Jill@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>  
**Subject:** RE: OR

The State noted that without data about the health of the extant aquatic life within Oregon's waters, it was unable to conclude that there have been detrimental changes to the resident biological communities. It is reasonable for Oregon to await in-state data to confirm to its satisfaction that there are not environmental differences between state and federal waters that may affect the health of the resident biological communities. EPA has determined that, on that basis, it is reasonable for the State to decline to list its marine waters at this time. As water chemistry data taken inside Oregon's state waters document similar aragonite saturation conditions that have been observed to be corrosive to pteropods outside state waters, EPA continues to recommend that Oregon's future research efforts in state marine waters include the collection of pteropod data to further understand current water quality conditions and aquatic life impacts within Oregon's territorial waters. The EPA's responses to all ODEQ's comments as well as other comments received on aquatic impairments are contained in Enclosure 2: "EPA Response to Comments on Oregon's 2012 303(d) List Partial Approval/Partial Disapproval," and Enclosure 3: "EPA Site Specific Response to Comments on Oregon 2012 303(d) List," attached to this decision document.

Tom Glazer  
USEPA Office of General Counsel  
Water Law Office  
7426N WJC North  
(202) 564-0908

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**From:** Glazer, Thomas  
**Sent:** Tuesday, December 18, 2018 1:29 PM  
**To:** Cora, Lori <Cora.Lori@epa.gov>; Fullagar, Jill <Fullagar.Jill@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>  
**Subject:** RE: OR

The EPA also is approving Oregon's decision not to list marine waters with respect to aquatic life impairments because there are no direct scientific observations of biological degradation within Oregon state waters. On March 29, 2017, ODEQ provided comments and its rationale for why it determined that the existing data and information do not support listing Oregon's jurisdictional ocean waters at this time. See 40 CFR §130.7(b)(6)(iii), (iv). The EPA reviewed ODEQ's rationale and determined that it was reasonable for the State not to list its marine waters for aquatic life use impairment at this time for the following reasons. Although several studies document a correlation between the dissolution of pteropod shells and corresponding aragonite saturation state, the EPA acknowledges that the current *in situ* data indicating biological impairment to pteropods is from outside of Oregon's state waters. The State noted that without data about the health of the extant aquatic life within Oregon's waters, it was unable to conclude that there have been detrimental changes to the resident biological communities. Although water chemistry data taken inside Oregon's state waters document similar aragonite saturation conditions that have been observed to be corrosive to pteropods outside state waters,

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**Attorney Client / Deliberative Process / Ex. 5** EPA has determined that, on that basis, it is reasonable for the State to decline to list its marine waters at this time. EPA continues to recommend that Oregon's future research efforts in state marine waters include the collection of pteropod data to further understand current water quality conditions and aquatic life impacts within Oregon's territorial waters. The EPA's responses to all ODEQ's comments as well as other comments received on aquatic impairments are contained in Enclosure 2: "EPA Response to Comments on Oregon's 2012 303(d) List Partial Approval/Partial Disapproval," and Enclosure 3: "EPA Site Specific Response to Comments on Oregon 2012 303(d) List," attached to this decision document.

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**From:** Cora, Lori  
**Sent:** Tuesday, December 18, 2018 12:51 PM  
**To:** Havard, James <Havard.James@epa.gov>; Fullagar, Jill <Fullagar.Jill@epa.gov>; Glazer, Thomas <glazer.thomas@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>  
**Cc:** Croxton, David <Croxton.David@epa.gov>  
**Subject:** RE: OR

Let's think about this a minute.

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**Attorney Client / Deliberative Process / Ex. 5** Why should we?

Lori Houck Cora | Assistant Regional Counsel  
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**From:** Havard, James  
**Sent:** Tuesday, December 18, 2018 9:36 AM  
**To:** Fullagar, Jill <[Fullagar.Jill@epa.gov](mailto:Fullagar.Jill@epa.gov)>; Glazer, Thomas <[glazer.thomas@epa.gov](mailto:glazer.thomas@epa.gov)>; Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

Lori – what are your thoughts on the revisions below?

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**From:** Fullagar, Jill  
**Sent:** Tuesday, December 18, 2018 12:17 PM  
**To:** Glazer, Thomas <[glazer.thomas@epa.gov](mailto:glazer.thomas@epa.gov)>; Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

Thanks Tom. I think that is a little more ambiguous and therefore better. Anyone else? Should I go ahead and change it?

And if so....are we done?????

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**From:** Glazer, Thomas  
**Sent:** Tuesday, December 18, 2018 9:13 AM  
**To:** Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>; Fullagar, Jill <[Fullagar.Jill@epa.gov](mailto:Fullagar.Jill@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
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Thanks. I just want see if we can find a palatable and justifiable way to address the spirit of his comment. What about this?

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**From:** Hunter, Christopher  
**Sent:** Tuesday, December 18, 2018 12:07 PM  
**To:** Fullagar, Jill <[Fullagar.Jill@epa.gov](mailto:Fullagar.Jill@epa.gov)>; Glazer, Thomas <[glazer.thomas@epa.gov](mailto:glazer.thomas@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

That was my read as well Jill. I didn't agree with the comment bubble proposal, but didn't have a strong reaction to the specific language inserted. However, based on what we've said in the past, I think Jill's edits would be the best bet.

Chris Hunter  
202.566.1454  
Watershed Branch, Office of Water  
US Environmental Protection Agency

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**From:** Fullagar, Jill  
**Sent:** Tuesday, December 18, 2018 12:02 PM  
**To:** Glazer, Thomas <[glazer.thomas@epa.gov](mailto:glazer.thomas@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>; Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

I think I am reacting more to what I take to be his comment embedded in your comment:

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**From:** Glazer, Thomas  
**Sent:** Tuesday, December 18, 2018 8:51 AM  
**To:** Fullagar, Jill <[Fullagar.Jill@epa.gov](mailto:Fullagar.Jill@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>; Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

Thanks. I'm curious what others think.

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Is this worth a quick call?

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**From:** Fullagar, Jill  
**Sent:** Tuesday, December 18, 2018 11:38 AM  
**To:** Glazer, Thomas <[glazer.thomas@epa.gov](mailto:glazer.thomas@epa.gov)>; Cora, Lori <[Cora.Lori@epa.gov](mailto:Cora.Lori@epa.gov)>; Havard, James <[Havard.James@epa.gov](mailto:Havard.James@epa.gov)>; Hunter, Christopher <[Hunter.Christopher@epa.gov](mailto:Hunter.Christopher@epa.gov)>  
**Cc:** Croxton, David <[Croxton.David@epa.gov](mailto:Croxton.David@epa.gov)>  
**Subject:** RE: OR

Personally, no, I'm not comfortable with that. That is absolutely contrary to what we said in our briefing papers. We said during the last list, when we looked at extrapolating from Tribal to state waters, it was not appropriate because of changes in riverine inputs, land use, etc. We said in the briefing papers for this list:

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**From:** Glazer, Thomas  
**Sent:** Tuesday, December 18, 2018 6:47 AM

**To:** Fullagar, Jill <Fullagar.Jill@epa.gov>; Cora, Lori <Cora.Lori@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>

**Subject:** RE: OR

Fotouhi had one suggested addition. Can you take a look at my proposed changes in the attached documents and let me know what you think?

Thanks,  
Tom

Tom Glazer  
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**From:** Fullagar, Jill

**Sent:** Thursday, December 13, 2018 4:58 PM

**To:** Cora, Lori <Cora.Lori@epa.gov>; Glazer, Thomas <glazer.thomas@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>

**Subject:** OR

Hi all,

I just ran into John Goodin and he talked to Anna and was told that we are good to go from their end. She just wants OGC's ok on the OA rationale piece. She didn't need review of the rest, just the OA. So...Tom, if you can follow up on that end and let me know if you need anything else, I think we can get this puppy outta here

😊 Thanks.

jill